

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



February 5, 1999

## ALL-COUNTY INFORMATION NOTICE I-11-99

TO: ALL COUNTY WELFARE DIRECTORS  
ALL PUBLIC ADOPTION AGENCIES  
ALL CDSS ADOPTION DISTRICT OFFICES  
ALL PRIVATE ADOPTION AGENCIES

**REASON FOR TRANSMITTAL**

- ☒ (X) State Law Change
- ☐ ( ) Federal Law or Regulation Change
- ☐ ( ) Court Order or Settlement Agreement
- ☐ ( ) Clarification Requested by One or More Counties
- ☐ ( ) Initiated by CDSS

SUBJECT: ENACTMENT OF AB 2773 (CHAPTER 1056, STATUTES OF 1998)  
IMPLEMENTING THE PROVISIONS OF THE FEDERAL ADOPTION AND SAFE  
FAMILIES ACT OF 1997 (H.R. 867—PUBLIC LAW 105-89)

This All-County Information Notice is to notify you of the enactment of AB 2773, effective January 1, 1999, which implements the provisions of the federal Adoption and Safe Families Act of 1997 (H.R. 867—Public Law 105-89). In addition to making several technical amendments, Chapter 1056, Statutes of 1998 added several major provisions to the Welfare and Institutions Code (WIC), Family Code (FC), and the Health and Safety Code (HSC) that will impact the provision of child welfare and adoption services. A detailed summary of the statutory changes is listed in the attachment. Kathy Watkins, Legislative Program Manager, at San Bernardino County Social Services, prepared the attachment.

If you have any questions regarding adoption-related issues, please contact the Adoptions Policy Bureau at (916) 322-4228 or e-mail at Shirley.Lafayette@dss.ca.gov. Questions relating to child welfare services should be directed to your Child Welfare Services Operations consultant at (916) 445-2832. Questions regarding licensing should be directed to your Community Care Licensing consultant.

***Original Document Signed By  
Marjorie Kelly on 1/22/99***

MARJORIE KELLY  
Deputy Director  
Children and Family Services Division

c: CWDA

Attachment

# PROVISIONS OF AB 2773, COMMITTEE ON HUMAN SERVICES, CHAPTER 1056, STATUTES OF 1998

As noted, several of these sections implement the provisions of the federal Adoption and Safe Families Act of 1997 (ASFA) (H.R. 867 Public Law 105-89).

Code Section	Provisions
<b><u>FAMILY CODE:</u></b>	
<b>Amends F.C. Sec. 8700</b>  Out-of-State Relinquishments	<ul style="list-style-type: none"> <li>Adds a new subsection (d) to this relinquishment section to cover the circumstances when both the relinquishing parent and child reside outside the state and the child will be placed for adoption within the state.</li> <li>Requires that the birth parent receive the same counseling and advisement services available in this state and that the relinquishment be signed before a representative of the other state's adoption agency whenever possible, or a licensed social worker on a form signed by the California adoption agency signifying willingness to accept the relinquishment.</li> </ul>
<b>Amends F.C. Sec. 8707</b>  Photolisting Service	Existing state law requires CDSS to establish a statewide photolisting book of freed children to help recruit adoptive families. ASFA requires specific recruitment efforts to expedite adoptions. New F.C. Sec. 8710.1 describes these efforts. F.C. 8707 was amended to strike references to a "book", adding "photolisting services" to permit more flexible methods, like Internet access.
<b>Amends F.C. 8708</b>  Prohibition against Delay or Denial of Adoptive Placement	ASFA contains strong language to prohibit the delay or denial of an adoptive placement because the prospective adoptive family lives outside the jurisdiction of the licensed adoptive agency. This federal language is amended into new subsection (c). ASFA limits this prohibition to "approved adoptive families." F.C. 8708 defines approval as a family who meets the standards of a California adoptive applicant assessment or approved by the equivalent standards of the other state as certified by the California placing agency.
<b>Adds F.C. 8710.1 to 8710.4</b>  Statewide Exchange Program	To meet the ASFA requirements of documenting the efforts to find an adoptive home, these sections describe a new mandate for CDSS to either update the photolisting service in F.C. 8707 or develop a new statewide exchange system of approved families and freed children. Provisions are made for secured access by licensed adoption agencies and confidentiality protections. This section also requires the child be registered with the statewide exchange system. It also requires that approved families be registered unless the family refuses to consent to the registration or a specific child or children have already been identified for adoptive placement with the family.
<b>Amends FC 8711</b>  Freed Children	Clarifies that the statewide exchange program above applies only for those children relinquished for adoption or declared free from parental custody and control.
<b><u>HEALTH AND SAFETY CODE:</u></b>	
<b>Adds H &amp; S Sec. 1502.6</b>  Private Adoption Agencies- Executive Director Experience	Requires that CDSS deny a license to a private adoption agency unless the executive director or supervisor has had at least 5 years of full-time social work employment in the field of child welfare, 2 years of which was spent in adoptions.

<b>Code Section</b>	<b>Provisions</b>
<b>Amends H &amp; S Sec. 1505(k)</b>  Relative-Licensure-Exempt Status	This is part of a technical cleanup to the definition of a relative made in AB 1544, Statutes of 1997. This cleanup deletes reference to the child's half-sibling for licensing purposes. This deletion is necessary to ensure consistency between the definition of a relative for licensure, dependency placement, and AFDC-FC payment.
<b>Amends H &amp; S Sec. 1530.8</b>  Children Under 6 Years in Group Care	<ul style="list-style-type: none"> <li>Clarifies that existing law regulating limits to placement in group homes of children under age 6 does not apply to group care placements of dependent teen mothers providing primary caregiving to their infants placed with them.</li> <li>Adds a subsection (d) to require CDSS to issue proposed regulations on teen mother/infant group care programs, using national guidelines. CDSS to convene a meeting by 2-28-99 of interested parties to receive consultation prior to developing the regulations.</li> </ul>
<b><u>WELFARE AND INSTITUTIONS CODE:</u></b>  <b>Amends WIC Sec. 319</b>	<p>As a technical cleanup to AB 1544, Statutes of 1997, the definition of a relative for temporary placement of a WIC 300 child is revised to eliminate reference to half-siblings and use the exact language as the AFDC-FC definition of a relative to ensure children placed with relatives are eligible for either AFDC-FC or CalWORKs payment. (Unfortunately, AB 1544's definition of a relative created some new categories of step-relatives and adults related thru half-siblings that were ineligible for <u>any</u> type of payment.)</p> <p><u>Note:</u> All references to "minor" were changed to "child", and "probation officer" to "social worker" and references to WIC 366.25 were eliminated throughout this bill to parallel AB 1091.</p>
<b>Amends WIC Sec. 361.5</b>  Definition of Entry Into Foster Care  Elimination of Duplicative Sections  Technical Cleanup  No-FR Dispo <u>is</u> Permanency Hearing  Safety Language	<ul style="list-style-type: none"> <li>Subsection (g)(2) regarding the adoption assessment's review of the child's extended family is amended to conform to the existing language in WIC 366.22 (b)(2) for consistency purposes.</li> </ul>
<b>Amends WIC Section 366</b>  Safety Language	<ul style="list-style-type: none"> <li>Deletes a reference to WIC 366.25</li> <li>Inserts "safety of the child" as a consideration court must make at each 6-month review hearing.</li> </ul>
<b>Amends WIC Sec. 366.1</b>  Safety Language	Adds safety language when returning a child to the parental home in subsection (b).

Code Section	Provisions
<p><b>Amends WIC Sec. 366.21</b></p> <p>Notice of Hearings to Caregivers</p> <p>12 Month Permanency Hearing</p> <p>Substantial Probability</p> <p>Compelling Reason</p> <p>Elimination of Duplicative Sections</p>	<ul style="list-style-type: none"> <li>ASFA requires notice of hearings be provided to foster parents, <u>relative caregivers</u> and <u>prospective adoptive parents</u> who are the child's caregiver. Subsection (b) was amended to clarify that notice to foster parents included all these types of caregivers. Subsection (c) is equally amended regarding the provision of a summary of the worker's disposition to caregivers. Subsection (d) is equally amended regarding the caregiver's ability to file a report with the court.</li> <li>To subsection (e), reference is made to continuing the matter to the "12 month permanency hearing" instead of the "next review" hearing to clarify that the 366.21(f) hearing meets the ASFA definition of the required permanency hearing within 12 months of entry into foster care.</li> <li>As above, the first WIC 366.21 section is allowed to sunset. The second section had an omission in subsection (f) - that of the reasonable services finding. This language was restored.</li> <li>ASFA's intent is to expedite permanency where appropriate, but does not prohibit additional FR services after the 12 months. Existing law provides a "substantial probability" standard. This bill now provides a definition for substantial probability to include safety of the child, consistent and regular parental contact and visits, significant parental progress in resolving problems that led to the removal, and the parental demonstration of the capacity and ability to complete treatment and safely provide for the child's well-being.</li> <li>Adds the "compelling reason" language ASFA requires whenever the agency determines a TPR petition will not be filed. This is added to (g)(2), the long-term foster care provision.</li> </ul> <p>Subsection (h)(2) on the adoption assessment contains the same consistency language on extended families as in WIC 366.22(b)(2).</p>
<p><b>Amends WIC Sec. 366.22</b></p> <p>Permanency Review Hearing</p> <p>Compelling Reason</p> <p>Elimination of Duplicative Sections</p>	<ul style="list-style-type: none"> <li>Since ASFA requires a 12 month Permanency Hearing, the 366.22 hearing is now a "permanency review hearing" which must occur 18 months from the original physical removal of the child. Subsection (a) is amended with this language.</li> <li>The "compelling reason" language is entered here to permit an order for long-term foster care. Compelling reason is defined as a recommendation by the adoption agency that adoption is not in the child's best interests.</li> <li>Again, the first WIC 366.22 section is allowed to sunset.</li> </ul>
<p><b>Amends WIC Sec. 366.26</b></p> <p>180 days for Search for Adoptive Family</p> <p>Compelling Reason</p> <p>Elimination of Duplicative Sections</p>	<ul style="list-style-type: none"> <li>Reference to adjudication after 1-1-89 is eliminated to conform to AB 1091.</li> <li>Subsection (b)(2) is amended to extend the option to identify adoption as the permanency goal, but not ordering TPR, and ordering a search for an adoptive family be made, is extended from <u>90</u> days to <u>180</u> days.</li> <li>Subsection (c)(1) adds the "compelling reason" language.</li> <li>Again, the first WIC 366.26 section is allowed to sunset, leaving only the second section to remain.</li> </ul>
<p><b>Amends WIC Sec. 366.3</b></p> <p>Safety Language</p>	<ul style="list-style-type: none"> <li>Eliminates any reference to 366.25 to conform to AB 1091.</li> <li>Adds child safety language to subsection (e) regarding what the court must consider at each 6-month permanency review hearing.</li> <li>Adds the compelling reason language for the every 12-month permanency planning hearing. Unless a compelling reason is documented in the child's case record, a petition for a TPR must be filed, according to ASFA.</li> </ul>

<b>Code Section</b>	<b>Provisions</b>
<b>Amends WIC Sec. 10950</b>  State Fair Hearings	<ul style="list-style-type: none"> <li>ASFA specifically provides prospective adoptive parents the right to a state fair hearing to appeal a delay or denial of an adoption placement because the family was outside the adoption agency's jurisdiction.</li> <li>This section was amended to add to the definition of "recipients" entitled to state hearings those prospective adoptive families described in ASFA.</li> </ul>
<b>Amends WIC Sec. 11155.5</b>  \$5,000 Cap on ILP Savings by Foster Youth	ASFA permits foster children in Independent Living Programs to accumulate assets up to \$5,000 without jeopardizing their eligibility to AFDC-FC or CalWORKs. Existing state law permitted ILP foster youth to exclude any amount of savings. This section was amended to place the federal \$5,000 cap on excluded savings to conform to IV-E foster care eligibility.
<b>Amends WIC Sec. 11400</b>  Safety language Definition of Relative for AFDC-FC	<ul style="list-style-type: none"> <li>Subsection (i) was amended to add safety language to the content of the 6-month periodic review of all foster care cases.</li> <li>Subsection (m) was amended to conform this AFDC-FC definition of a relative to those used in WIC 319 and WIC 361.3.</li> </ul>
<b>Amends WIC Sec. 11401</b>  Definition of a Relative	Subsection (f) conforms the AFDC-FC definition of a relative for federal financial participation to be the same as the definition used in federal law for IV-E payment.
<b>Amends WIC Sec. 11404.1</b>  12 Month Permanency Hearing for AFDC-FC	For AFDC-FC entitlement, adds that the permanency hearing will be heard 12 months from the child's entry into foster care, and once every 12 months thereafter, to conform to ASFA requirements.
<b>Amends WIC Sec. 11478.1</b>  Federal Parent Locator Services	<p>ASFA permits states to access the federal Parent Locator Services for purposes of locating parents for child welfare services and dependency law.</p> <p>This section is amended to permit disclosure to county welfare departments when administering programs under IV-B (CWS) or IV-E (foster care).</p>
<b>Amends WIC Sec. 16100</b>  Contracting for Out-of-State Adoption Services	Subsection (b) was amended to permit a licensed adoption agency to contract for adoption services from any out-of-state licensed adoption agency to facilitate adoptive placements. This was added to help counties meet the requirement to place children across state lines when appropriate and to create funding flexibility.
<b>Amends WIC Sec. 16120</b>  AAP – Continuing Eligibility	<p>ASFA permits a child who was originally eligible for federal AAP when adopted, whose adoption is subsequently dissolved, and is to be adopted again, to remain eligible for AAP as if the prior adoption never occurred.</p> <p>Subsection (h) is added to contain this ASFA provision.</p>
<b>Adds WIC Section 16131</b>  Federal Incentive Payments	ASFA provides for federal incentive payments to states for increasing the number of foster children who are adopted. This section states it is the Legislature's intent that federal incentive payments be reinvested into the child welfare system to provide increased postadoptive services to families adopting foster children.

Code Section	Provisions
<b>Amends WIC Sec. 16501.1</b>  Safety Language  Child's Case Plan  Compelling Reason  Search for Adoptive Family	<ul style="list-style-type: none"> <li>• Adds ASFA's safety language to the required elements of the child's case plan.</li> <li>• Describe that if FR services are not ordered, or terminated, reasonable efforts shall be made to place the child in a permanent home and to finalize the permanent plan in a timely manner as required by ASFA.</li> <li>• ASFA requires that a TPR petition be filed for every child in foster care 15 out of the last 22 months, unless the child's case plan documents a compelling reason that adoption is not in the child's best interest. Subsection (f)(10) is amended to describe the required compelling reason documentation. Subsection (f)(13) is added to describe the steps taken to find an adoptive family for each child whose plan is adoption. Specific recruitment efforts and use of electronic exchange systems must be documented.</li> </ul>
<b>Amends WIC Sec. 16508.1</b>	<p>ASFA requires that states review their existing foster care caseload for every child who has been in care for 15 out of the last 22 months to determine if a TPR petition (366.26 hearing) should be initiated. This must occur unless a compelling reason why the child should not be adopted is determined by the licensed adoption agency and documented in the case record. This section describes the exceptions permitted to the mandatory setting of a .26 hearing. ASFA requires that the existing foster care case load be reviewed against the compelling reason standard and requires that 1/3 of the caseload be reviewed by 7-1-99, 2/3's reviewed by 1-1-2000, and all reviewed by 7-1-2000. This review can occur outside the court process, but will be documented in the case plan and described in the 6-month review court reports.</p> <p>If the worker does determine that adoption is appropriate, the worker shall initiate concurrent efforts to identify, recruit, process, and approve a qualified family to adopt the child.</p>